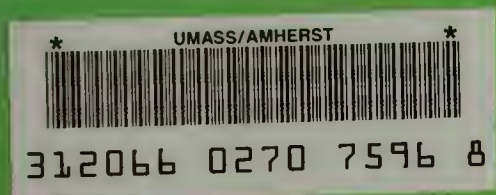


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# THE HOME RULE AMENDMENT AND THE HOME RULE PROCEDURES ACT

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**COMMONWEALTH OF MASSACHUSETTS**

**William F. Weld, Governor**

**A. Paul Cellucci, Lt. Governor**

**EXECUTIVE OFFICE OF COMMUNITIES  
AND DEVELOPMENT**

**Mary L. Padula, Secretary**

**revised March 1992**

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I. SUMMARY OF CHARTER ADOPTION, REVISION, AND  
AMENDMENT PROCEDURES





#### A. Charter Adoption or Revision

In summary form the procedures for adoption or revision are described below:

1. Petition drive. A petition is circulated to determine if there is sufficient interest to warrant placing the question of creating a charter commission on the ballot. The petition must be signed by at least fifteen (15) percent of the number of voters registered at the preceding state election. The city/town clerk is directed to supply forms to any registered voter who requests them.

2. File completed petition. The completed petition is filed with the board of registrars of voters. The registrars must certify the signatures within ten (10) days of receipt of the petition and report results to the selectmen or city council.

3. Election order. The city council or board of selectmen is allowed thirty (30) days after they receive the certification of the registrars to provide for placing the question on the ballot at the next regular city or town election.

At least sixty (60) days must lapse between the election order and the election.

If the city council or board of selectmen fails to act within the thirty (30) days they are allowed, the question on creation of a commission and the election of charter commission members shall take place on or after the ninetieth (90) day after the date the petition was originally received.

If a charter has not previously been adopted under this Amendment, the question must be "Shall a commission be elected to frame a charter for the (city) (town) of X?" (Note this well.) Many persons have been confused over this requirement. This is particularly true in cities where citizens are accustomed to thinking in terms of now having a city charter. These existing "charters" are not to be confused with charters adopted pursuant to this Home Rule Amendment. For reasons too complex to discuss here, the Home Rule Amendment does distinguish between pre-existing charters and those adopted under the Amendment. Therefore, even if the only change which is sought, for example, is to change the term of office for the mayor from two (2) years to four (4), the question would nevertheless have to be as set forth above. Subsequently, the question would be "to revise " but you cannot revise until you have first framed a charter by this procedure.

4. Nomination of charter commission members. The order placing the question

of establishing a charter commission on the ballot must also provide for the election of charter commission members. Candidates for the office of charter commissioner may have their names placed on the ballot based upon the following signature requirements:

Population less than  
6,000 . . . . . 10 signatures  
6,000 to 11,999 . . . . . 25 signatures  
12,000 to 49,999. . . . . 50 signatures  
50,000 to 99,999. . . . .100 signatures  
100,000 or more  
population. . . . . .200 signatures

5. Election of the commission. The names of charter commission candidates are placed on the official ballot in alphabetical order preceded by instructions which state that a voter may vote for not more than nine (9) persons as charter commission members.

The question of electing a charter commission to adopt or revise a charter is also placed on the ballot. If a majority votes in favor of the question of adopting or revising a charter, the nine (9) candidates receiving the highest number of votes are elected.

6. Charter commission organization. Within ten (10) days of the commission's election the city or town clerk notifies the nine (9) commissioners elected of the initial commission meeting. At the initial meeting the commission elects a chairman, vice-chairman, and clerk.

The city or town clerk is required to notify the department of community affairs of the commission's election. The department is required to notify the commission of the dates for submitting its reports and placing the final report on the ballot. (See page .)

7. Funding a charter commission. Within

twenty (20) days of the election, the city or town treasurer is required with or without appropriation to credit the charter commission's account with funds based on the following scale:

Population less than 12,000 . . \$ 2,000  
12,000 to 49,999 . . . . . 5,000  
50,000 to 99,999 . . . . . 7,500  
over 100,000 . . . . . 10,000

A city or town is also required to provide a charter commission with suitable office space and reasonable access to facilities for holding public hearings, free of charge.

A commission must be permitted to consult with, and obtain advice and information from, city and town officers and employees during ordinary working hours.

A city or town may contribute clerical or other staff assistance as well as appropriate additional monies for use by the charter commission.

A city or town may appropriate additional funds as is deemed necessary.

A charter commission may accept funds from any private or public source but must report in writing to the city or town clerk the name, address and any stipulations placed on the monies.

A charter commission may use funds for (1) the employment of legal, research and clerical assistance; (2) reimbursement of expenses incurred by commission members in the performance of their duties; and (3) printing and other necessary items.



8. Public hearing(s). A charter commission must hold a public hearing within forty-five days of its election. The purpose of this initial hearing or set of hearings is to solicit the views, comments, opinions and proposals from the public for consideration by the charter commission.

The time and place of the initial public hearing(s) and all subsequent public hearings held before a charter commission must be specified in a notice published in a newspaper of general circulation in the community at least ten (10) days prior to the hearing. Hearings may be adjourned and continued at another occasion without further published notice.

9. Preliminary report. Within sixteen\* months after its election the charter commission must prepare and publish a preliminary report. The preliminary report contains the commission's preliminary recommendations including the text of the charter or charter revision and explanatory information that the commission wishes to include. (See page 32\*).

The preliminary report must be published in a newspaper of general circulation in the community. The commission must supply the city or town clerk with sufficient copies of the preliminary report in order to enable the clerk to distribute copies to registered voters requesting them.

The charter commission must also deliver two (2) copies of the preliminary report to the attorney general, and two (2) copies to the department of community affairs.

Within four (4) weeks of its publi-

cation the charter commission is required to hold one or more public hearings.

Notice of the public hearing(s) must be published in a newspaper of general circulation in the community at least ten (10) days prior to the hearing.

10. Opinion of the attorney general. Within four weeks after receipt of the preliminary report the attorney general is required to furnish a charter commission with a written opinion relative to any provisions that may be in conflict with the state constitution and the General Laws.

The attorney general does not have authority to approve or disapprove a charter or charter revision; the attorney general provides an opinion.

The charter commission should re-examine those aspects of the preliminary charter proposal that the attorney general, in his opinion, feels are in conflict with the constitution and the General Laws.

A charter commission must supply the department of community affairs with two (2) copies of a commission's preliminary report. The department of community affairs has no review authority but serves as a clearinghouse for all home rule charters. These files are open for inspection.

11. Final Report. Within eighteen\* (18) months after its election the charter commission is required to prepare and submit a final report to the city council or the board of selectmen. (See page 32\*). The final commission report must consist of: (1) the full text of the proposed charter with explanations and

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\* A community with an annual election can complete the charter process in a shorter period of time. See pages 19 and 33.

other information that the commission feels is desirable; (2) the major difference between the current and proposed charters; and (3) a minority report (if any) of not more than 1,000 words.

A copy of the charter commission's final report must be sent to the department of community affairs and the attorney general.

12. Final report placed on the ballot. The city council or board of selectmen upon receipt of the final charter commission report must order the charter proposal or charter revision to appear on the ballot at the next regular municipal election. At least two months must lapse between the order and municipal election.

The form of the ballot question would be as follows:

"Shall this (city) (town) approve the (insert "new charter recommended by the charter commission" or "charter revision recommended by the charter commission") summarized below?"

The city council or board of selectmen must also see that the final report of the charter commission is printed and distributed to each residence with one or more registered voters at least two (2) weeks prior to the election.

Additional copies of the final report must be filed with the city or town clerk and made available for distribution to registered voters.

13. Municipal election. If a majority of voters vote in favor of a proposed charter or charter revision, the charter becomes effective on the date specified in the charter. If no date is specified, the charter becomes effective upon voter approval. The effective date of an amendment may also be specified in the order proposing it.

14. Notification of charter adoption. Four certificates must be prepared and signed by the city or town clerk which set forth any charter that has been adopted or revised and any charter amendments. The certificates must be deposited with the secretary of state's office, the department of community affairs, the attorney general, and in the records of the city or town.

#### B. Charter Amendment Process

1. Amendments proposed by the town meeting or city council. Town meetings or city councils are empowered to propose charter amendments by a two-thirds vote. These legislatively proposed amendments must be voted upon by the citizens at the regular city or town election and if approved by a majority take effect.

Amendments may not relate in any way to the composition, mode of election or appointment, or terms of office of the legislative body, and the mayor or city manager. These changes may be made by the charter adoption or revision procedure.

2. Petition for suggested amendments. The citizen right of suggesting charter amendments is as follows:

- The mayor, city manager, or any member of the city council by a written request may place a charter amendment proposal before a city council;
- The town manager or any selectman of a town by a written request may place a charter amendment proposal before town meeting; in addition, in a town a petition signed by ten registered voters on a form (as provided in C. 43B, S. 15), in a city such petitions shall contain as many names as needed to nominate a charter commission member (50 if less



than 50,000) (100 if between 50,000 and 99,999) and (200 if over 100,000), in any of the above cases the request or petition is to be filed with the city/town clerk.

- Within 3 months of the filing with the clerk the city council or board of selectmen shall call a public hearing to be held before it or by a committee selected or established for that purpose.
- Any number of amendment proposals may be heard at the same time. The hearing shall be held within four (4) months of the filing; must be seven (7) days notice of the hearing published in a newspaper of general circulation.
- If the hearing is held by someone other than the city council in a city, they must make their report to the city council. In towns the report by whomever conducted must make its report to the town meeting. In cities final action must be taken no later than six (6) months after filing. In towns final action must be taken at the first annual meeting held at least six (6) months after the filing provided that 200 voters or 20 percent of the registered voters (whichever is less) may at any time after the public hearing request the selectmen to call a special meeting for the purpose which must then be held within forty-five (45) days of the receipt of that request.

A copy of any proposed amendment approved by the city council or town meeting is immediately to be filed with the attorney general of the commonwealth who within four weeks of such submission must furnish an opinion as to any conflict between the proposal and the state constitution or any state laws. If the attorney general reports no conflict the order placing the matter on the ballot will then take effect. If the attorney

general's opinion is that the proposal does conflict with either the constitution or laws of the state, the order is suspended and will not go on the ballot unless the town meeting or city council by a further proceeding provides to do so.



II: MUNICIPAL HOME RULE AMENDMENT TO THE MASSACHUSETTS  
CONSTITUTION: TEXT AND COMMENTS

*Municipal Home Rule is now guaranteed to citizens of Massachusetts by the provisions of Article LXXXIX of the Amendments to the Constitution of the Commonwealth. Each section of the Home Rule Amendment is reproduced on the following pages with brief explanatory comments.*





## TEXT

*Section 1. Right of Local Self Government.* It is the intention of this article to reaffirm the customary and traditional liberties of the people with respect to the conduct of their local government, and to grant and confirm to the people of every city and town the right of self-government in local matters, subject to the provisions of this article and to such standards and requirements as the general court may establish by law in accordance with the provisions of this article.

*Section 2. Local Power to Adopt, Revise or Amend Charters.* Any city or town shall have the power to adopt or revise a charter or to amend its existing charter through the procedures set forth in sections three and four. The provisions of any adopted or revised charter or any charter amendment shall not be inconsistent with the constitution or any laws enacted by the general court in conformity with the powers reserved to the general court by section eight.

No town of fewer than twelve thousand inhabitants shall adopt a city form of government, and no town of fewer than six thousand inhabitants shall adopt a form of government providing for a town meeting limited to such inhabitants of the town as may be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.

*Section 3. Procedure for Adoption or Revision of a Charter by a City or Town.* Every city and town shall have the power to adopt or revise a charter in the following manner: A petition for the adoption or revision of a charter shall be signed by at least fifteen percent of the number of legal voters residing in such city or town at the preceding state election. Whenever such a petition is filed with

## COMMENTARY

*Section 1. Right of Local Self Government.*

*This represents a statement of the intent of the amendment.*

*Section 2. Power to Adopt, Revise or Amend Charters*

*Citizens of every city and town may adopt, amend or revise their charters.*

*To become a city a population requirement of 12,000 is set. To adopt a representative town meeting a minimum population of 6,000 is required.*

*Section 3. Procedure for Adoption or Revision of a Charter*

*In outline form procedures for adoption or revision of a charter are as follows:*

*A petition is circulated to determine if there is enough interest to warrant placing the question of creating a charter commission on the ballot;*

## TEXT

the board of registrars of voters of any city or town, the board shall within ten days of its receipt determine the sufficiency and validity of the signatures and certify the results to the city council of the city or board of selectmen of the town, as the case may be. As used in this section, the phrase "board of registrars of voters" shall include any local authority of different designation which performs the duties of such registrars, and the phrase "city council of the city or board of selectmen of the town" shall include local authorities of different designation performing the duties of such council or board. Objections to the sufficiency and validity of the signatures on any such petition as certified by the board of registrars of voters shall be made in the same manner as provided by law for objections to nominations for city or town offices, as the case may be.

Within thirty days of receipt of certification of the board of registrars of voters that a petition contains sufficient valid signatures, the city council of the city or board of selectmen of the town shall by order provide for submitting to the voters of the city or town the question of adopting or revising a charter, and for the nomination and election of a charter commission.

If the city or town has not previously adopted a charter pursuant to this section, the question submitted to the voters shall be: "Shall a commission be elected to frame a charter for (name of city or town)?" If the city or town has previously adopted a charter pursuant to this section, the question submitted to the voters shall be: "Shall a commission be elected to revise the charter of (name of city or town)?"

## COMMENTARY

*Completed petition is filed with the registrars of voters who have 10 days to certify signatures. If the registrars find the petition is signed by at least 15 percent of the number of voters registered for the preceding state election, they then certify such fact to the selectmen (in a town) or to the city council (in a city).*

*The city council or board of selectmen is allowed 30 days after they receive the certification of the registrars to provide for placing the question on the ballot at the next regular city or town election.*

*If a charter has not previously been adopted under this amendment, the question must be, "Shall a commission be elected to frame a charter for the (city) (town) of X?"*



## TEXT

The charter commission shall consist of nine voters of the city or town, who shall be elected at large without party or political designation at the city or town election next held at least sixty days after the order of the city council of the city or board of selectmen of the town. The names of candidates for such commission shall be listed alphabetically on the ballot used at such election. Each voter may vote for nine candidates.

The vote on the question submitted and the election of the charter commission shall take place at the same time. If the vote on the question submitted is in the affirmative, the nine candidates receiving the highest number of votes shall be declared elected.

Within eighteen months after the election of the charter commission, said commission shall submit the charter or revised charter to the city council of the city or the board of selectmen of the town, and such council or board shall provide for publication of the charter and for its submission to the voters of the city or town at the next city or town election held at least two months after such submission by the charter commission. If the charter or revised charter is approved by a majority of the voters of the city or town voting thereon, it shall become effective upon the date fixed in the charter.

*Section 4. Procedure for Amendment of a Charter by a City of Town.* Every city and town shall have the power to amend its charter in the following manner: The legislative body of a city or town may, by a two-third's vote, propose amendments to the charter of the city or town; provided, that (1) amendments of a city charter may be proposed only with the concurrence of the mayor in every city that has a mayor,

## COMMENTARY

At the same election that the question of electing a charter commission is on the ballot (which must be at least 60 days after the order of the city council or selectmen), candidates run for the office of charter commissioner. The names of candidates appear alphabetically without party or political designation. The 9 persons receiving the highest number of votes are elected.

Within 18 months after their election the commission is directed to submit recommendations to the city council or selectmen which must then provide for their publication and submission to the voters at the next regular city or town election held at least 2 months afterward. (Additional standards and requirements are provided in chapter 43B of the general laws. (See page 33.)

### *Section 4. Amending a Charter*

A city or town may adopt amendments as follows: local legislative bodies are empowered to propose charter amendments by two-thirds vote. Proposed amendments must be voted upon by the citizens at the next municipal election and if approved by a majority of the voters voting thereon, the amendments take effect. Any

## TEXT

and (2) any change in a charter relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager or the board of selectmen or town manager shall be made only by the procedure of charter revision set forth in section three.

All proposed charter amendments shall be published and submitted for approval in the same manner as provided for adoption or revision of a charter.

*Section 5. Recording of Charters and Charter Amendments.* Duplicate certificates shall be prepared setting forth any charter that has been adopted or revised and any charter amendments approved, and shall be deposited in the office of the secretary of the commonwealth and the other shall be recorded in the records of the city or town and deposited among its archives. All courts may take judicial notice of charters and charter amendments of cities and towns.

*Section 6. Governmental Powers of Cities and Towns.* Any city or town may, by the adoption, amendment, or repeal of local ordinances or by-laws, exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court by section eight, and which is not denied, either expressly or by clear implication, to the city or town by its charter. This section shall apply to every city and town, whether or not it has adopted a charter pursuant to section three.

*Section 7. Limitations on Municipal Powers.* Nothing in this article shall be deemed to grant to any city or town the power to (1) regulate elections other than those prescribed by sections three and four; (2) to levy, assess and collect

## COMMENTARY

change in a charter related in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager or the selectmen or town manager may be proposed only by a charter commission. In cities, the mayor must approve amendments before they may be placed on the ballot.

*Section 5. Recording of Charters and Amendments with Secretary of the Commonwealth and in municipal archives.*

*Section 6. Devolution of Powers*

Local governments are free to engage in any activity that is not reserved to the state by the constitution or preempted by the legislature.

*Section 7. Limitations in Powers*



taxes; (3) to borrow money or pledge the credit of the city or town; (4) to dispose of park land; (5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power; or (6) to define and provide for the punishment of a felony or to impose imprisonment as a punishment for any violation of law; provided, however, that the foregoing enumerated powers may be granted by the general court in conformity with the constitution and with the powers reserved to the general court by section eight; nor shall the provisions of this article be deemed to diminish the powers of the judicial department of the commonwealth.

*Section 8. Powers of the General Court.*

The general court shall have the power to act in relation to cities and towns, but only by general laws which apply alike to all cities, or to all towns, or to all cities and towns, or to a class of not fewer than two, and by special laws enacted (1) on petition filed or approved by the voters of a city or town, or the mayor and city council, or other legislative body, or a city, or the town meeting of a town, with respect to a law relating to that city or town; (2) by a two-third's vote of each branch of the general court following a recommendation by the governor; (3) to erect and constitute metropolitan or regional entities, embracing any two or more cities or towns or cities and towns or established with other than existing city or town boundaries, for any general or special public purpose or purposes, and to grant to these entities such powers, privileges and immunities as the general court shall deem necessary or expedient for the regulation and government thereof; or (4) solely for the incorporation or dissolution of cities or towns as corporate entities, alteration of city or town

*Section 8. Powers of the General Court*

*The legislature is authorized to act in relation to cities and towns by General Laws which apply to all cities and towns, all cities, all towns, or a class of cities and/or towns provided the class consists of 2 or more communities.*

*The legislature is prohibited from enacting special laws relating only to one city or town unless certain conditions are met.*

*A city or town charter may be amended by the enactment of a special law.*

## TEXT

boundaries, and merger or consolidation of cities and towns, or any of these matters.

Subject to the foregoing requirements, the general court may provide optional plans of city or town organization and government under which an optional plan may be adopted or abandoned by majority vote of the voters of the city or town voting thereon at a city or town election; provided, that no town of fewer than twelve thousand inhabitants may be authorized to adopt a city form of government, and no town of fewer than six thousand inhabitants may be authorized to adopt a form of town government providing for a town meeting limited to such inhabitants of the town as may be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.

This section shall apply to every city and town whether or not it has adopted a charter pursuant to section three.

*Section 9. Existing Special Laws.* All special laws relating to individual cities or towns shall remain in effect and have the force of an existing city or town charter, but shall be subject to amendment or repeal through the adoption, revision or amendment of a charter by a city or town in accordance with the provision of sections three and four and shall be subject to amendment or repeal by laws enacted by the general court in conformity with the powers reserved to the general court by section eight.

## COMMENTARY

*The legislature is empowered to provide optional plans of city and town government.*

*No town of fewer than 12,000 inhabitants may adopt a city form of government.*

*No town of fewer than 6,000 inhabitants may provide for a representative town meeting.*

*Section 9. Existing Special Laws*  
*See G. L. c. 43B s. 19.*

III. CHAPTER 43B OF THE MASSACHUSETTS GENERAL LAWS,  
"THE HOME RULE PROCEDURES ACT": TEXT AND  
COMMENTS

*The Home Rule Procedures Act provides uniform standards and procedures to implement those parts of the Home Rule Amendment governing charter adoption, revision, and amendment. On the pages which immediately follow, the actual text of the law and brief explanatory comments are provided.*





## TEXT

*Section 1.* This chapter may be cited as the "Home Rule Procedures Act." As used in this chapter, the terms "board of registrars of voters," "city council," and "board of selectmen" shall include any local authority of different designation performing like duties.

*Section 2.* Every city and town shall have the power to adopt or revise its charter or to amend its existing charter in accordance with procedures prescribed by this chapter.

*Section 3.* The adoption of a charter for any city or town under sections two and three of Article LXXXIX of the Amendments to the Constitution and the revision of any charter so adopted shall be initiated by filing with the board of registrars of voters of the city or town a petition signed by at least fifteen percent of the number of registered voters residing in said city or town at the preceding state election. Such petition may consist of a number of separate sheets, but each sheet shall be in substantially the form prescribed therefor in section fifteen and shall be signed and completed in accordance with the instructions contained therein. The city or town clerk shall furnish forms for such petition to any registered voter of the city or town requesting the same. Within ten days from such filing, the board shall check each name to be certified by it on the petition, shall certify thereon the number of signatures so checked which are names of registered voters in the city or town, and shall report the results to the city council or board of selectmen, as the case may be, by filing its report with the city or town clerk. Only names so checked shall be deemed to be names of registered voters for purposes of such petition. The board need not certify more than one hundred and forty percent

## COMMENTARY

*Section 1. Citation*

*Section 2. Power to Adopt, Revise or Amend a Charter*

*Section 3. Petition Drive, Certification of Signatures.*

*To establish a charter commission citizens must secure the signatures of 15 percent of the registered voters of the city or town as of the date of the last state election.*

*Petition forms are provided by the city or town clerk. Section 15 subsection (c) of this chapter prescribes the form the petition must take.*

## TEXT

of the number of names required to file a petition, and names not certified in the first instance shall not thereafter be certified on the same petition.

The sheets constituting the petition need not be filed at the same time. For the purposes of this section and of section three of Article LXXXIX, such a petition shall be deemed to be filed whenever the persons responsible for its filing notify the board in writing that the filing is complete. Before receiving such notice, the board may, but shall not be required to, certify signatures on the sheets of the petition already filed.

Objections to the sufficiency and validity of the signatures on any such petition as certified by the board of registrars of voters shall be made in the same manner as provided by section seven of chapter fifty-five B, within two working days after the filing of the aforementioned certification report by the board.

**Section 4.** Within thirty days of receipt of certification by the board of registrars of voters that a petition contains sufficient valid signatures, the city council or board of selectmen shall by order provide for submitting the question of adopting or revising a charter to the voters of the city or town, and for the election of a charter commission at the first regular city election, or at the first annual or biennial town meeting

## COMMENTARY

### Section 4. Election Order

Within 30 days of the receipt of certification of sufficient valid signatures, the city council or board of selectmen **MUST** provide for the order submitting the question of adopting or revising a charter to the voters. The ballot must contain (1) the question of adopting or revising a charter, and (2) provide for the election of a nine-

## TEXT

for the election of town officers, held on or after the sixtieth day following the adoption or the order. Said order shall not require the concurrence of the mayor in a city and shall not be subject to referendum. If an order of the city council or board of selectmen under this section has not been adopted within the thirty days specified above, the question of adopting or revising a charter shall be submitted to the voters and charter commission members shall be elected at the first regular city election, or the first annual or biennial town meeting for the election or town officers, held on or after the ninetieth day after receipt by the city council or board of selectmen of certification provided for in the first sentence of this section.

*Section 5.* The signatures of the following number of registered voters shall be required to nominate charter commission members in cities or towns having the following number of inhabitants: two hundred such signatures if one hundred thousand or more inhabitants, one hundred such signatures if fifty thousand or more but less than one hundred thousand inhabitants, fifty such signatures if twelve thousand or more but less than fifty thousand inhabitants, twenty-five such signatures if six thousand or more but less than twelve thousand inhabitants, and ten such signatures if less than six thousand inhabitants.

The last day for filing certified nomination papers for members of a charter commission with the city or town clerk shall be the twenty-eighth day preceding the date for their election. The manner of signing and the time for presenting nomination papers for certification to the board of registrars of voters, and the manner of and time for certifying the same, shall be governed by section seven of chapter fifty-three. Such nomination papers shall contain information with respect to candidates, except that

member charter commission. At least 60 days must lapse between the election order and the election.

*If the city council or board of selectmen does not issue an election order, the question of adopting or revising a charter shall be submitted to the voters at the first regular election held 90 days or more after receipt by the city council or board of selectmen of certification from the board of registrars of sufficient valid signatures.*

### *Section 5. Nomination of a Charter Commission*

*The following signature requirements are necessary to nominate charter commission candidates:*

<u>Population</u>	<u>Signatures</u>
under 6,000	10
6,000 - 11,999	25
12,000 - 49,999	50
50,000 - 99,999	100
100,000 and above	200



## TEXT

no party or political designation shall be used, and shall be filed with the city or town clerk by a responsible person and accompanied by the candidate's acceptance, all as provided by and subject to the provisions of sections eight and nine of chapter fifty-three applicable to the nomination of officers for such city or town. Objections to the sufficiency and validity of the signatures on any nomination paper as certified by the board of registrars of voters shall be made and disposed of in the manner provided by sections eleven and twelve of chapter fifty-three, or by special law applicable to the city or town.

Upon application made by any city or town clerk, the state secretary shall provide him with blank forms for the nomination of charter commission members in such city or town. The city and town clerks shall supply such forms only to candidates or to persons authorized in writing by a candidate to obtain said forms in his behalf. One copy of a voting list shall be furnished to each candidate by the city or town clerk upon request. Except as provided in this section, the provisions of sections one to twelve, inclusive, and section seventeen of chapter fifty-three shall not apply to the nomination of charter commission members.

*Section 6.* A charter commission shall consist of nine registered voters of the city or town elected at large and by official ballot, without party or political designation, at an election held in accordance with this chapter. The names of the candidates nominated in accordance with section five shall be placed on such ballot in alphabetical order, preceded by an instruction to the effect that a voter may vote for not more than nine persons as charter commission members whether or not he favors the election of

## COMMENTARY

*Nomination papers may not contain party or political designation. Upon request, the city or town clerk shall furnish a candidate with one copy of a voting list.*

### *Section 6. Municipal Election*

*A charter commission consists of nine registered voters elected at-large. Candidates' names are placed on the ballot in alphabetical order. A voter may vote for not more than nine persons.*

## TEXT

a charter commission. The question of electing a commission to adopt or revise the charter shall be placed on such ballot in the form prescribed by the constitution.

If a majority of the votes cast upon the question of adopting or revising the charter is in the affirmative, the nine candidates receiving the highest number of votes shall be declared elected.

If a majority of the votes cast upon the question is in the affirmative, the city or town clerk shall notify the commissioner of community affairs of such affirmative vote and the commissioner shall notify such commission of the dates for submission of their reports and the available date or dates that such report can be placed on its ballots. Amended by St. 1979, c. 68.

*Section 7.* The city or town clerk within ten days of the election shall notify the nine candidates elected to the charter commission of the initial charter commission meeting. At such initial meeting a charter commission shall promptly organize by the election from any of its members a chairman, a vice chairman and a clerk and shall file a notice of such organizations with the city or town clerk. A charter commission shall continue to exist until thirty days after the election at which its charter adoption or revision proposal, if any, is required to be submitted to the voters under this chapter or until thirty days after submission to the city council or town meeting of a final report recommending no new charter or revision. If any member dies, resigns, or ceases to be a registered voter of the city or town, a vacancy shall result which shall be filled by the election of any registered voter of the city or town by vote of a majority of the remaining members. The commission may continue to act

## COMMENTARY

*If a majority of the votes cast upon the question of adopting or revising a charter is in the affirmative, the nine candidates receiving the highest number of votes are elected.*

*The city or town clerk must notify the department of community affairs of the commission's election and the department is required to notify the commission of the dates for submission of their reports and the dates that the report can be placed on the ballot.*

### *Section 7. Organization of Charter Commission*

*The city or town clerk within 10 days of the election notifies the nine candidates elected to the commission of the commission's initial meeting.*

*A charter commission will continue to exist until 30 days after the municipal election at which a charter adoption or revision proposal is submitted to the voters. If no new charter proposal or revision is recommended, the commission will exist until 30 days after submission of the commission's final report to the board of selectmen or city council.*

*Should a commission member die, resign, or cease to be a registered voter, the remaining commission members may, by majority vote, elect any registered voter to fill a vacancy. The commission may act even if it does not fill a vacancy.*



## TEXT

notwithstanding the existence of any vacancy. Members shall serve without compensation but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties. Amended by St. 1978, c.52.

### *Section 8.*

(a) A charter commission may adopt rules governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees, who shall not be subject to the provisions of chapter thirty-one, or consultants as its account may permit. In addition to funds made available by a city or town the charter commission account may receive funds from any other source, public or private, provided, however, that no contribution of more than five dollars shall be accepted from any source other than the city or town unless the name and address of the person or agency making the contribution, the amount of the contribution and the conditions or stipulations as to its receipt or use, if any, are disclosed in a writing filed with the city or town clerk. The consent of a charter commission to any such condition or stipulation shall not be binding upon a city or town. Within thirty days after submission of its final report the charter commission shall file with the city or town clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the city's or town's surplus revenue account.

(b) Each city or town shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to such commission, and shall permit it to consult with and obtain advice and information from city or town

## COMMENTARY

### *Section 8. Charter Commission Funding*

*A commission may employ legal, research, clerical or other employees or consultants.*

*In addition to funds received from a city or town, a commission may receive funds from any other public or private source.*

*Each city or town is required to provide suitable office space and reasonable access to facilities for holding public hearings free of charge, and may contribute clerical or other assistance.*

*A commission must be permitted to consult with and obtain advice and information from municipal officers and employees during ordinary working hours.*

## TEXT

during ordinary working hours. Within twenty days after the election of a charter commission, the city or town treasurer shall credit to the account of the charter commission, with or without appropriation, the sum of two thousand dollars in a town of less than twelve thousand inhabitants, the sum of five thousand dollars in city or town of twelve thousand or more but less than fifty thousand inhabitants, the sum of seven thousand five hundred dollars in a city or town of fifty thousand or more but less than one hundred thousand inhabitants and the sum of ten thousand dollars in any other city or town. Such sum shall be provided by taxation in the manner set forth in section twenty-three of chapter fifty-nine if payment is made prior to the fixing of the annual tax rate, and otherwise shall be provided by transfer by the treasurer from available funds or by borrowing in the manner and for the period provided in the case of final judgements under clause (11) of section seven of chapter forty-four, and subject to all applicable provisions of said chapter forty-four, except that such borrowing may be authorized by the city treasurer and city manager, if any, otherwise the mayor of the city and by the town treasurer and board of selectmen of a town. A city or town may appropriate such additional funds for its charter commission as is deemed necessary.  
(amended by St. 1984, c. 363, s. 6)

### Section 9.

(a) Within forty-five days after its election, the charter commission shall hold a public hearing.

## COMMENTARY

The municipal treasurer shall within 20 days of the municipal election credit to the commission's account, WITH OR WITHOUT APPROPRIATION, the sum of:

Population	Funds
under 12,000	\$ 2,000
12,000 - 49,999	5,000
50,000 - 99,999	7,500
100,000 or more	10,000

### Section 9. Preliminary and Final Charter Commission Reports

Within 45 days after its election, a



## TEXT

(b) Within sixteen months after its election, the charter commission shall prepare a preliminary report including the text of the charter or charter revision which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable, shall cause such report to be published in a newspaper having general circulation in the city or town, shall provide sufficient copies of the preliminary report to the city or town clerk to permit its distribution to each registered voter requesting the same, and shall furnish two copies to the attorney general and two copies to the department of community affairs. Within four weeks after such publication, the commission shall hold one or more public hearings upon the report. Within four weeks after his receipt of the report, the attorney general shall furnish the commission with a written opinion setting forth any conflict between the proposed charter or charter revision and the constitution and laws of the commonwealth. A copy of the opinion shall at the same time be furnished to the department of community affairs.

(c) Within eighteen months after its election, the charter commission shall submit to the city council or board of selectmen its final report, which shall include the full text and an explanation of the proposed new charter or charter revision, such comments as the commission deems desirable, an indication of the major differences between the current and proposed charters, and a statement of not more than one thousand words by the commission minority, if any, provided such statement is filed with the chairman of the commission within forty-eight hours after the commission's vote approving such report. A copy of said final report shall also be submitted to the

## COMMENTARY

*charter commission shall hold a public hearing.*

*Within 16 months\* after its election, the commission shall prepare a preliminary report including the text of the charter or charter revision. The report shall be published in a newspaper having general circulation in the city or town. Additional copies should be available to be distributed by the city/town clerk.*

*Within 4 weeks of publication of the preliminary report, the commission must hold a public hearing upon the report. Notice of time and place of the public hearing shall be published at least 10 days prior to the hearing in a newspaper of general circulation in the city or town.*

*Two copies of the preliminary charter must be furnished to the attorney general. The attorney general shall within 4 weeks furnish the commission with a written opinion setting forth any conflict between the proposed charters and the general laws and the constitution.*

*Two copies of the preliminary charter must be furnished to the Massachusetts department of community affairs.*

*Within 18 months\* after its election, the charter commission shall submit its final report to the city council or board of selectmen. The final report shall include the text of the charter proposal, explanation of the proposal, and comments the commission deems desirable, and indicate the major differences between the current and proposed charter.*

*A commission minority may file a statement of not more than one thousand words.*

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*\* See p. 33.*



## TEXT

department of community affairs and to the attorney general.

(d) All public hearings before a charter commission shall be held within the city or town at such time and place as may be specified in a notice published at least ten days prior to the hearing in a newspaper having general circulation in the city or town, but hearings may be adjourned from time to time without further published notice.

### *Section 10.*

(a) Amendments to a city or town charter previously adopted or revised under this chapter may be proposed by the city council of a city or the town meeting of a town by a two-thirds vote in the manner provided by this section; provided, that amendments of a city charter may be proposed only with the concurrence of the mayor in every city that has a mayor, and that only a charter commission elected under this chapter may propose any change in a charter relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager. In this section, the word "mayor" shall mean an officer elected by the voters as the chief executive officer of a city or an officer lawfully acting as such, and the term "two-thirds vote" shall mean, in cities, a vote taken by yeas and nays, of two-third's of the members of a city council present and voting thereon, and shall mean, in towns, the vote of two-thirds of the voters present and voting at a duly called meeting.

(b) In addition to any amendment proposed by a city council or town meeting under subsection (a) the city council or town meeting shall consider and vote upon any

## COMMENTARY

*A copy of the final report shall be submitted to the Massachusetts department of community affairs and to the attorney general.*

### *Section 10. Charter Amendments*

*By a two-thirds vote, a city council (with concurrence of the mayor) or a town meeting may propose charter amendments. Charter amendments become effective only after approved by a majority of the voters.*

*A charter amendment proposed by a city council or town meeting may not relate to the composition, mode of election or appointment, or term of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager. These latter provisions must be altered by means of a charter commission*

*A town meeting or a city council may not consider and vote upon a charter amendment which is substantially the same as an amendment already considered and voted upon within the last twelve months.*

*A town meeting or city council must consider charter amendments suggested*

## TEXT

suggested charter amendment which it would have the power to propose under subsection (a) and which is not substantially the same as an amendment already considered and voted upon by it within the last twelve months, and which is suggested to it in a written request signed by the mayor or city manager or any member of the city council in a city or by the town manager or any selectman of a town, or is suggested to it by a petition in substantially the form set forth in section fifteen, signed and completed in accordance with the instructions contained therein by at least ten registered voters, in the case of a city, as would be required to nominate a charter commission member in such city under section five, which written request or petition shall be filed with the city or town clerk.

At the earliest convenient time not later than three months after the date any suggested amendment is filed with the city or town clerk, the city council or board of selectmen shall order a public hearing to be held thereon before it or before a committee selected or established by it for the purpose, provided that any number of suggested amendments may be considered at the same hearing. Such a hearing shall be held not later than four months after the filing date of any suggested amendment to be considered, and at least seven days notice of such public hearing shall be published in a newspaper of general circulation in the city or town. Except where the hearing is held by a city council, the board or committee holding the public hearing shall report its recommendations to the city council or town meeting, as the case may be. Final action on such a suggested amendment shall be taken not later than six months after such filing date in the case of a city and, in the case of a town, not

## COMMENTARY

in writing by the mayor, city manager, any member of a city council, or by a town manager or selectman. A town meeting must consider charter amendments proposed by a local voter petition signed by ten registered voters. In a city, suggested amendments must be considered if proposed by a voter petition signed according to the following population scale:

<u>Population</u>	<u>Signatures</u>
12,000 - 49,999	50
50,000 - 99,999	100
100,000 or above	200

No later than three months after the filing of a proposal, the city council or board of selectmen must order a public hearing or establish a committee to hold a hearing. The hearing must be held within four months after the introduction of a proposal. At least seven days' notice of the public hearing, published in a newspaper of general circulation, must be given.

No later than six months after the filing date, a city council must take final action on a suggested charter amendment. In a town, the final action on a suggested charter amendment must be taken not later than the first annual town meeting held at least six months after the filing date of an amendment.



## TEXT

later than the first annual town meeting held at least six months after such filing date, provided that at any time after the public hearing two hundred registered voters of a town, or twenty percent of the total number of registered voters of such town, whichever is less, may in writing request the selectmen to call a special town meeting to consider the suggested amendment, and the selectmen shall thereupon call such meeting which shall be held not more than forty-five days after the receipt of the request.

(c) Whenever an order proposing a charter amendment to the voters is approved by the mayor and city council or town meeting, a copy of the proposed amendment shall be immediately submitted to the attorney general and to the department of community affairs and such order shall not take effect for four weeks after the date of such submission. Within such four weeks the attorney general shall furnish the city council or board of selectmen with a written opinion setting forth any conflict between the proposed amendment and the constitution and laws of the commonwealth. A copy of the opinion shall at the same time be furnished to the department of community affairs. If the attorney general reports that the proposed amendment conflicts with the constitution or laws of the commonwealth, the order proposing such amendment shall not take effect except as may be specified by further proceedings of the mayor and city council or town meeting under subsection (a). If the attorney general reports no such conflict, such order shall become effective four weeks after its submission to the attorney general.

(d) No order or vote under subsection (a), (b) or (c) shall be subject to referendum or shall, except as provided in subsection (a), require the concurrence of the mayor.

## COMMENTARY

*At any time after the public hearing, two hundred registered voters of a town or twenty percent of the total number of registered voters, whichever is less, may request the selectmen to call a special town meeting to consider the suggested amendment. The meeting must be held not more than 45 days after receipt of request.*

*After a proposed charter amendment is approved by a two-thirds vote of a city council or town meeting, a copy of the amendment shall be submitted to the attorney general and the department of community affairs. The attorney general, within four weeks, must furnish a written opinion setting forth any conflict between the proposed amendment and the general laws or constitution.*

*If no conflicts are found, the order placing the proposed charter amendment before the voters shall take effect. The charter amendment becomes effective if approved by a majority of the voters at the next regular election.*

## TEXT

(e) The provisions of subsections (a), (b) and (c) shall apply to amendments of laws having the force of a city or town charter by virtue of section nine of Article LXXXIX of the Amendments to the Constitution as well as to amendments of a charter previously adopted or revised under this chapter.

*Section 11.* Upon submission of the final report of a charter commission under section nine, the city council or board of selectmen shall order the proposed charter or charter revision to be submitted to the voters of the city or town for their approval at the first regular city election, or at the first annual or biennial town meeting for the election of town officers, held at least two months after such submission, but a charter commission report which does not recommend the adoption or revision of a charter shall not be submitted to the voters. Such an order shall not require the concurrence of the mayor in cities and shall not be subject to referendum. A proposed charter amendment shall be similarly submitted to the voters at the first such election or meeting held at least two months after the order proposing such charter amendment becomes effective under section ten. The question of adopting a charter or revising a charter as recommended by a charter commission shall be submitted to the voters as a single question unless the report of the charter commission provides for the separate submission of proposed revisions. Unrelated charter amendments proposed by a city council or town meeting shall be submitted to the voters as separate questions.

The question of approving the adoption of or any revision of or amendment to a charter shall be placed on a written or printed ballot, which ballot, including

## COMMENTARY

*Laws having the force of a city or town charter (special laws) may be amended by these procedures.*

*Section 11. Submission of a Proposed Charter or Charter Amendments to the Voters*

*Upon submission of a final report of a charter commission, the city council or board of selectmen must order the proposal submitted to the voters at the first annual city election or annual or biennial town election held at least two months after the order proposing an amendment becomes effective.*

# TEXT

# COMMENTARY

ballot labels where voting machines are used, shall be prepared by public authority and at public expense. A copy of the ballot question and summary prepared in accordance with the following instructions shall be filed with the city or town clerk no later than thirty-five days before the election, and the form of the question shall be substantially as follows:

"Shall this (city) (town) approve the (insert "new charter recommended by the charter commission" or "charter revision recommended by the charter commission" or "charter amendment proposed by the (city council) (town meeting)," as appropriate) summarized below?"

YES	
NO	

*Form of the ballot question.*

(Where a new charter or single revision is being submitted at an election, set forth here a brief summary of its basic provisions (composition and mode of selection of the legislative and executive branches and school committee or, if a change of none of these is involved, the most significant proposed change). Where separate revisions or any amendments are being so submitted, set forth here the substance thereof in a manner also sufficient to distinguish each from any other amendments or revisions to be considered at the same election. The charter commission shall prepare the summaries of its own proposals and the city solicitor or town counsel shall prepare the description of proposed amendments.)

*Summary of proposal.*

The city council or board of selectmen shall cause the final report of a charter commission, or a charter amendment proposed in an order which has become effective under section ten, to be

*The city council or board of selectmen are required to print the final report of a charter commission and*



## TEXT

printed and a copy to be distributed to each residence of one or more registered voters. Such distribution shall occur not later than two weeks before the election at which the question of adopting, revising or amending the charter is to be submitted to the voters. Additional copies of such final report or proposed amendment shall be filed with the city or town clerk for distribution to registered voters requesting the same and one such copy shall be posted in his office.

A new charter or charter revision approved by a majority of the voters of the city or town voting thereon shall take effect on the day specified in such charter or revision, and any proposed amendment so approved shall take effect upon the date specified therein or in the city council order or town meeting vote proposing the same. If two or more charter adoption, revision, or amendment proposals are submitted to the voters in the alternative and are approved, only the alternative proposal receiving the highest number of affirmative votes shall take effect. If two or more charter adoption, revision, or amendment proposals containing conflicting provisions are submitted to the voters, but not as alternatives, and are approved, all such proposals shall take effect, but the proposal receiving the highest number of affirmative votes shall be construed to prevent all conflicting provisions contained in other proposals from taking effect.

*Section 12.* Certificates in quadruplicate shall be prepared setting forth any charter that has been adopted or revised any any charter amendments approved and shall be signed by the city or town clerk. One such certificate shall be deposited in the office of the secretary of the commonwealth, one shall be deposited in the office of secretary of communities and development, one shall be deposited

## COMMENTARY

*distribute a copy to each residence of one or more registered voters. The distribution must occur two weeks before the election.*

*A charter proposal, if approved by a majority of the voters at an election, shall take effect on the day specified in the charter. Charter amendments, if approved by a majority of the voters, become effective on the date specified.*

### *Section 12. Distribution of Adopted Charter*

*A city or town clerk is required to prepare four certificates setting forth any charter adopted or any charter amendments approved. The copies must be deposited with the secretary of state, secretary of communities and development, the attorney general, and the remaining*

## TEXT

in the office of the attorney general and the other shall be recorded in the records of the city or town and deposited in its archives. All courts may take judicial notice of charters and charter amendments of cities and towns.

The city council of each city, and the board of selectmen of each town, shall, at intervals of not greater than ten years, cause the charter of said city or town as revised or amended to be reprinted for distribution to such registered voters of said city or town as may apply therefor at the office of the city or town clerk. Acts of the general court which are included in such charter may be referred to by appropriate subject headings and statutory citations instead of being set forth at length. Copies of said document may be sold at a price not to exceed the cost of paper, printing and binding thereof, plus mailing charges if any, as determined by said clerk.

Amended by St. 1970, c. 786, §6; St. 1971, c. 37, §2; St. 1975, c. 163, §16.

*Section 12A.* A charter submitted to the voters in accordance with the provisions of this chapter which has failed of approval at a city or town election, but which has received the affirmative votes of not less than thirty-five percent of those voting on the question, shall be considered an optional charter for such city or town. Upon the petition of ten percent of the registered voters of such city or town, said optional charter shall be once resubmitted to the voters at a regular city or town election held no later than the second year following the original submission of such charter to the voters. The city council in a city, the town council in a town having a town council, and in every other town the board of selectmen, shall cause any

## COMMENTARY

*copy must be recorded in the records of the city or town and deposited in its archives.*

*Subsequent printing, distribution and sale of copies of the municipal charter.*

*Section 12A. Resubmission of a Defeated Charter*

*A charter which has failed to receive voter approval may be once more resubmitted to the voters at a regular city or town election held no later than the second year following the original submission of the charter. To be resubmitted to the voters, a charter proposal must have received at least thirty-five percent of the affirmative vote.*



changes to be made in dates in the charter as originally submitted to the voters which are necessary to ensure the orderly implementation of the optional charter. Added by St. 1970, c. 237. Amended by St. 1974, c. 803.

*Section 13.* Any city or town may, by the adoption, amendment or repeal of local ordinances or by-laws, exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court by section 8 of Article LXXXIX of the Amendments to the Constitution and which is not denied, either expressly or by clear implication, to the city or town by its charter. Whenever appropriations, appointments, orders, regulations or other legislative or executive actions within the scope of any such ordinance or by-law are necessary in the exercise of any power or function authorized by such ordinance or by-law, any such actions which are to be taken by a city council or town meeting may be taken by ordinance, by-law, resolution, order or vote, and any such actions which are to be taken by executive officers may be taken in any appropriate manner, subject, however, as to both such categories, to all provisions of the ordinance or by-law in question, the city or town charter, and other applicable law. Any requirement that an ordinance or by-law be entitled as such, or that it contain the word "ordained," "enacted," or words of similar import shall not affect the validity of any action which is required to be taken by ordinance or by-law. Nothing in this section shall be construed to permit any city or town, by ordinance or by-law, to exercise any power or function which is inconsistent

*Section 13. By-laws and Ordinances*

*Cities and towns may through the enactment of by-laws and ordinances exercise any power or function which the general court has power to confer. By-laws and ordinances may not be inconsistent with the constitution or general laws.*



with any general law enacted by the general court before November eighth, nineteen hundred and sixty-six which applies alike to all cities, or to all towns, or to all cities and towns, or to a class of not fewer than two. No exercise of a power or function denied to the city or town, expressly or by clear implication, by special laws having the force of a charter under section nine of said Article, and no change in the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager or the board of selectmen or town manager, may be accomplished by by-law or ordinance. Such special laws may be made inapplicable, and such changes may be accomplished, only under procedures for the adoption, revision or amendment of a charter under this chapter.

*Section 14.*

(1) The superior court shall, upon petition of ten or more registered voters or of the attorney general, have jurisdiction in equity to enforce the provisions of this chapter.

(2) The provisions of chapter two hundred and thirty-one A applicable to municipal by-laws or ordinances shall apply to charters, charter revisions, charter amendments, by-laws and ordinances of a city or town adopted under this chapter. In addition, a petition for declaratory relief under chapter two hundred and thirty-one A may be brought on behalf of the public by the attorney general or, by leave of the court, by ten or more registered voters of the city or town. In the case of a petition brought by ten registered voters, the attorney general shall be served with notice of the preliminary petition for leave, and may intervene as a party at

*Section 14. Enforcement of Charter Provisions*

*Procedures are provided in this section to enable citizens or the attorney general to enforce provisions of this chapter.*

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any stage of the proceedings; and the petitioners shall be liable for, but may in the court's discretion also be awarded, costs, which may include reasonable counsel fees.

(3) Judicial review to determine the validity of the procedures whereby any charter is adopted, revised or amended may be had by petition of ten or more registered voters of the city or town brought within thirty days after the election at which such charter, revision or amendment is approved. If no such petition is filed within such period, compliance with all the procedures required by this act and the validity of the manner in which such charter, revision or amendment was approved shall be conclusively presumed. No charter adoption, revision or amendment shall be deemed invalid on account of any procedural error or omission unless it is shown that the error or omission materially and substantially affected such adoption, revision or amendment.

*Section 15.*

(a) A petition for the adoption or revision of a charter shall conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page:

Each of the undersigned requests that the (city) (town) of . . . . . revise its present charter or adopt a new charter, and each of the undersigned certifies that he is a registered voter of said (city) (town) whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(b) A petition suggesting a charter amendment under section ten shall conform with

*Within thirty days after the election at which a charter or charter amendment is adopted, ten or more registered voters may petition for judicial review of procedures whereby a charter is adopted or amended.*

*Section 15. Petition Requirements*

*Form of petitions for adoption or revision.*

*Form of petition for amendment.*

TEXT

COMMENTARY

the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page:

Each of the undersigned requests that the (city council) (town meeting) propose the charter amendment(s) attached hereto to the voters of the (city) (town) of . . . ., and each of the undersigned certifies that he is a registered voter of said (city) (town) whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(c) The state secretary shall prescribe the form of all petitions under this chapter. Section seven of chapter fifty-three shall apply to all such petitions. No petition shall contain or be accompanied by any indication of party or political designation.

*Signatures for all petitions.*

Amended by St. 1988, c. 296, s. 7



## TEXT

*Section 16.* Any paper or document which is required by this chapter to be filed with or submitted to the city or town clerk or a city council or a board of selectmen shall be deemed to be so filed or submitted when it is delivered to the city or town clerk or to his office. Any paper or document which is required by this chapter to be filed with or submitted to a board of registrars of voters shall be deemed to be so filed or submitted when it is delivered to the office of the board or, if the board maintains no office, to the office of the city or town clerk. Any paper or document which is required by this chapter to be filed with or submitted to the attorney general shall be deemed to be so filed or submitted when it is delivered to the attorney general or to his office. Any paper or document which is required by this chapter to be filed with or submitted to the department of community affairs shall be deemed to be so filed or submitted when it is delivered to said department. Amended by St. 1970, c. 786, §7; St. 1975, c. 163, §20.

*Section 17.* The provisions of chapters fifty to fifty-seven, inclusive, applicable to city or town elections shall apply to the proceedings governed by this chapter so far as apt, but the provisions of sections fifty-five to fifty-eight, inclusive, of chapter fifty-four shall not be deemed to apply, and the provisions of this chapter shall prevail where they are in conflict with any applicable provisions of said chapters fifty to fifty-seven, inclusive.

*Section 18.* Any city or town having a charter under chapter forty-three or forty-three A or a method of electing

## COMMENTARY

*Section 16. Method of Filing and Submission of Papers or Documents*

*Section 17. Election Procedures*

*Election laws are applicable to the Home Rule Procedures Act; however, provisions of the Home Rule Procedures Act prevail if the provisions vary with other election laws.*

*Section 18. Standard Plans of City or Town Government*



## TEXT

officers under chapter fifty-four A may change the same in accordance with the procedures for the adoption or amendment of a charter prescribed by this chapter. Except as may be permitted by any general or special law enacted after November eighth, nineteen hundred and sixty-six, no city or town shall adopt or change charters or change its method of electing officers under said chapters forty-three, forty-three A, or fifty-four A or under any special laws in effect on such date, including without limitation chapters four hundred and fifty-two of the acts of nineteen hundred and forty-eight, six hundred and sixty-one of the acts of nineteen hundred and forty-nine and one hundred and fifty-two of the acts of nineteen hundred and fifty-four, as amended, and the procedures set forth in this chapter shall be exclusive.

*Section 19.* Clause fifth of section seven of chapter four shall not apply to this chapter. A special law relating to an individual city or town enacted subsequent to November eighth, nineteen hundred and sixty-six in compliance with clause (1) or clause (2) of section eight of Article LXXXIX of the Amendments to the Constitution shall be subject to amendment or repeal through the adoption, revision or amendment of a charter by such city or town in accordance with the provisions of sections three and four of said Article LXXXIX unless such special law specifically provides otherwise, and shall be subject to amendment or repeal by laws enacted by the general court in conformity with the powers reserved for the general court by section eight of said Article LXXXIX of said Amendments. Amended by St. 1969, c. 787.

## COMMENTARY

*This section places a "freeze" on further adoption of the standard plans of city government, plans A to F (G.L., C.43), and the standard plan of representative town meeting (G.L., C.43A). These plans may be abandoned or amended by home rule charter procedures.*

### *Section 19. Amendment of Special Laws*

*Certain special laws enacted by the general court to apply to one municipality may be amended or repealed by use of the home rule procedures.*

## TEXT

**Section 20.** The provisions of any charter or charter amendment adopted pursuant to the provisions of this chapter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices. Such provisions may provide:

(a) that any particular local office shall be either elected or appointed; provided, however, that in any town having a board of selectmen the members of such board shall always be elected; provided, further, that in any city or town having a school committee the members of such committee shall always be elected; and provided, further, in any town having a form of town meeting open to all of its registered voters the town moderator shall always be elected and in every other case all of the members of the legislative body shall always be elected;

(b) that any particular local officer or employee shall be appointed by any particular local officer;

(c) for the number of persons to serve as members of any multiple member body; provided, however, that all such multiple member bodies shall always consist of an odd number of members;

(d) for the term of office to be served by any local elected officer; provided, however, that no term of office of a local elected officer shall be for more than five years, and the members of multiple member bodies shall serve for terms which, as nearly as possible, expire in different years;

(e) for the merger or consolidation of two or more local offices into a single office;

(f) that the powers, duties and responsibilities of one local office be divided and exercised by two or more local offices;

(g) for the confirmation of any appointment by another municipal agency.

**Amended by St. 1984, c. 363.**

## COMMENTARY

Section 20 is concerned with the interpretation of charters and charter amendments. The language of this section is broad and ensures the validity of charter provisions which relate to local organization.

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\* It is suggested that a charter commission consult legal counsel with respect to dates for submission of reports. It appears that the term "within" provides a considerable degree of flexibility for charter commissions which do not need the entire time which may be legally available to them. While a commission is not permitted to take a longer time, members may decide to take any lesser amount of time as they determine. For example, in those towns which hold annual elections and believe that the 18-month preparation schedule as specified in Article LXXXIX and C. 43B is unnecessary, the commission may wish to consider placing the report of the charter commission on the ballot at the annual election in the year following the year in which the commission was elected. (see pages 2, 3, and 19)

#### IV. RELATED STATUTES





**The following definitions were abstracted from General Laws, chapter 4, section 7:**

**Appointing authority.** Second A, "Appointing authority", when used in connection with the operation of municipal governments shall include the mayor of a city and the board of selectmen of a town unless some other local office is designated as the appointing authority under provisions of a local charter.

**Board of Selectmen.** Third A, "Board of selectmen", when used in connection with the operation of municipal governments shall include any other local office which is performing the duties of a board of selectmen, in whole or in part, under the provisions of a local charter.

**Charter.** Fifth, "Charter", when used in connection with the operation of city and town government, shall include a written instrument adopted, amended or revised pursuant to the provisions of chapter forty-three B which establishes and defines the structure of city and town government for a particular community and which may create local offices, and distribute powers, duties and responsibilities among local offices and which may establish and define certain procedures to be followed by the city or town government. Special laws enacted by the general court applicable only to one city or town shall be deemed to have the force of a charter and may be amended, repealed and revised in accordance with the provisions of chapter forty-three B unless such special laws contain a specific prohibition against such action.

**Chief administrative officer.** Fifth A, "Chief administrative officer", when used in connection with the operation of municipal governments, shall include the mayor of a city and the board of selectmen in a town unless some other local office is designated to be the chief administrative the officer under the provisions of a local charter.

**Chief executive officer.** Fifth B, "chief executive officer," when used in connection with the operation of municipal governments shall include the mayor in a city and the board of selectmen in a town unless some other municipal officer is designated to be the chief executive officer under the provisions of a local charter.

**Legislative body.** Eighteenth B, "Legislative body", when used in connection with the operation of municipal governments shall include that agency of the municipal government which is empowered to enact ordinances or bylaws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled a city council, board of aldermen, town council, town meeting or by any other title.







